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Insolvency Petition No. 1 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.06.2025**

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

Insolvency Petition No. 1 of 2025

Vikram A.Jain

... Petitioner/Creditor

Vs.

T.Karthikeyan

... Respondent/Debtor

PRAYER: Insolvency Petition filed under Sections 9, 10, 11, 12 and 13 of the Presidency Towns Insolvency Act III of 1909 and Order III-A of the Insolvency Rules, praying to adjudicate the Debtor as Insolvent and to direct that the Estate of the Debtor be vested of the General body of creditors of the Debtor and to order that the costs of this petition paid by the Official Assignee of Madras from and out of estate of the Debtor to the Petitioning Creditor.

For Petitioner : Mr. T.Srikanth

For Respondent : Set exparte

ORDER

This petition has been filed under the provisions of the Presidency Towns Insolvency Act seeking to adjudicate the Debtor as Insolvent and



for a direction to the Official Assignee to administer the estate of the Debtor.

2. The petitioner is having the benefit of the three judgment and decrees in his favour against the Debtor and the said judgments are passed by the XIX Additional Judge, City Civil Court, Chennai on 22.12.2022 in O.S. Nos. 5983 of 2015, 5984 of 2015 and 5985 of 2015 respectively. Since the money directed by the XIX Additional, City Civil Court, Chennai under the aforementioned three decrees were not paid by the Debtor, the Petitioning Creditor has instituted this insolvency proceedings to adjudicate the respondent /Debtor as an insolvent.

3. The insolvency notice was issued by this Court to the respondent /Debtor in I.N. No. 1 of 2024 on 13.02.2024. The said insolvency notice issued as per the provisions of the Presidency Towns Insolvency Act was returned as unserved. Thereafter, this Court had directed the Petitioning Creditor to effect publication in Tamil daily 'Malai Murasu'. Pursuant to the said direction, the Petitioning Creditor

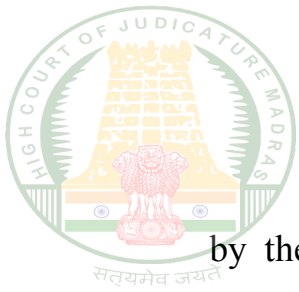


has also effected paper publication in Tamil daily, 'Malai Murasu' on 17.09.2024.

4. The Petitioning Creditor has also let in oral and documentary evidence before the learned Master of this Court pursuant to the direction issued by this Court. The Petitioning Creditor, Mr.Vikram A.Jain was himself examined as witness(PW1) and through PW1, the following documents were marked as exhibits before the learned Master.

<i>Sl. No.</i>	<i>Nature of Documents</i>	<i>Exhibits</i>
1.	Certified Copy of the decree dated 22.12.2022 in O.S. No. 5983 of 2015 passed by the XIX Additional, City Civil Court, Chennai.	Ex.P1
2.	Certified Copy of the decree dated 22.12.2022 in O.S. No. 5984 of 2015 passed by the XIX Additional, City Civil Court, Chennai.	Ex.P2
3.	Certified Copy of the decree dated 22.12.2022 in O.S. No. 5985 of 2015 passed by the XIX Additional, City Civil Court, Chennai.	Ex.P3
4.	The insolvency notice dated 13.02.2024 n I.N. No. 1 of 2024	Ex.P4
5.	The returned cover along with Affidavit of service	Ex.P5
6.	The copy of the paper publication effected in one Tamil daily of Malai Murasu dated 17.09.2024	Ex.P6

5. This Court after giving due consideration to the pleadings made



by the Petitioning Creditor in the petition as well as the documents, which have been marked as Exs.P1 to P6, is of the considered view that the Debtor has committed an act of insolvency for the following reasons:-

- (a) despite the judgment and decrees having attained finality, the respondent /Debtor has not come forward to settle the dues of the Petitioning Creditor;
- (b) the insolvency notice dated 13.02.2024 issued by this Court in I.N.No. 1 of 2024, which has been marked as Ex.P4, has also not been responded to by the respondent /Debtor. The said insolvency notice sent to the address of the respondent /Debtor has also been returned and the returned cover has also been marked as Ex.P5;
- (c) the paper publication was also effected by the Petitioning Creditor pursuant to the direction issued by this Court in Tamily Daily 'Malai Murasu' dated 17.09.2024, which has been marked as Ex.P6. A long rope has been given to the respondent /Debtor to settle the dues of the Petitioning



Creditor.

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6. A categorical averment has been made in the petition that the respondent /Debtor is indebted to various creditors and he is not in a position to pay the dues of the Petitioning Creditor. The decrees passed in favour of the Petitioning Creditor, which have been marked as exhibits, have also attained finality. The issuance of the insolvency notice to the respondent /Debtor which have not been responded to by the respondent /Debtor also proves that the respondent /Debtor does not have any means to pay the dues of the Petitioning Creditor.

7. The petitioner therefore satisfies the statutory requirements as required under the provisions of the Presidency Towns Insolvency Act for the purpose of declaring the respondent /Debtor as an insolvent by this Court. Therefore, the prayer sought for in this petition has to be granted. Accordingly, this petition is allowed as prayed for by adjudicating the respondent /Debtor as an insolvent and by directing the Official Assignee, Madras High Court to administer the estate of the



Insolvency Petition No. 1 of 2025

Debtor for the benefit of the General Body of Creditors of the Debtor.

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16.06.2025

Index :Yes/No

Maya

To

The Official Assignee, Madras High Court



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ABDUL QUDDHOSE, J.

Maya

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